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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JEFFREY BITTON, MICHA BITTON AND
SANDRA BITTON,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN
FRANCISCO, a municipal entity, SAN
FRANCISCO POLICE DEPARTMENT
CAPTAIN DAVID LAZAR, POLICE
OFFICER BURKE (SFPD BADGE NO.
2240), POLICE OFFICER BRENT
BRADFORD (SFPD BADGE NO. 4199),
POLICE OFFICER NG (SFPD BADGE NO.
338), POLICE OFFICER DOWKY (SFPD
BADGE NO. 799), POLICE OFFICER
MARON (SFPD BADGE NO. 1929), POLICE
OFFICER NEWBECK (SFPD BADGE NO.
1691), POLICE OFFICER PAPALE (SFPD
BADGE NO. 642), POLICE OFFICER

Case No. C08-5585 MMC

**SECOND JOINT ADMINISTRATIVE
MOTION TO EXTEND JURISDICTION OF
ENE EVALUATOR IN ORDER TO CONDUCT
ENE HEARING; ~~PROPOSED~~ ORDER
[STIPULATED]
[CIVIL L.R. 7-11]**

JONES (SFPD BADGE NO. 852), POLICE
OFFICER GARDEN (SFPD BADGE NO.
404), POLICE OFFICER MCKINNEY (SFPD
BADGE NO. 4), POLICE OFFICER
LIBERTA (SFPD BADGE NO. 682), and
DOES 1-100,

Defendants.

Pursuant to Local Rule 7-11 and ADR L.R. 5-4(b), the parties jointly file this stipulated
Administrative Motion to extend the jurisdictional time of the evaluator in order to conduct an ENE
Hearing.

BACKGROUND

This is a civil rights action brought by the Jeffrey Bitton, Micha Bitton and Sandra Bitton
against individual San Francisco police officers and the City and County of San Francisco. Plaintiffs
contend that the Defendants violated their Fourth Amendment rights by making an illegal arrest, an
unlawful entry into their home and using unlawful force, while the Defendants maintain that they had
probable cause to arrest, that exigent circumstances justified a warrantless entry, and that any force
used was lawful.

The parties and the Court's ADR coordinator engaged in a teleconference regarding the timing
of the ENE Hearing, the form of mandatory ADR selected by the parties. Following the conference,
the Court appointed Charles E. Farnsworth as the ENE Evaluator and set the hearing for June 11,
2009.

Due to conflicting schedules of the parties and evaluator, and the evaluator's extended vacation
plan, the parties were unable to conduct the hearing. Further, defense counsel had a family medical
emergency during that time that hampered scheduling of the matter. A subsequent hearing could not
be rescheduled within the 90-day time limit prescribed by ADR Local Rules for conducting such
hearing.

On September 8, 2009, a further ADR phone conference was conducted, at which time the
ADR coordinator recommended that the parties file a joint administrative motion seeking an extension
of the ENE Evaluator's jurisdiction so that ADR efforts could ensue. The court extended the ENE

jurisdiction for an additional 60 days. In the ensuing 60 days, the parties attempted to schedule an ENE with the evaluator, but could not. In this same period of time, the parties consulted with the ADR administrator regarding the difficulty of scheduling an ENE with the evaluator then assigned.

Due to issues and reasons unknown to the parties the ADR administrator recommended that the parties use a different evaluator. The parties agreed, and on or about November 24, 2009, the Court appointed another ENE evaluator, Patrick Robbins. The appointment was almost at the end of the ENE jurisdiction. On December 2, 2009, the parties held their joint phone conference with the new evaluator and all agreed to moved the court for a further extension of time to conduct the ENE.

Accordingly, the parties file this joint motion and request an extension of time to conduct an ENE until January 31, 2010. The parties and evaluator have tentatively scheduled January 20, 2010 for an ENE conference. Fact discovery closes January 29, 2010. In the event that the case does not resolve at the ENE, the parties will also request by a separate stipulation a 58-day extension of all the deadlines in this case. That would be the first such request and the parties do not anticipate making any other requests for additional time.

Dated: December 15, 2009

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City Attorney
JOANNE HOEPER
Chief Trial Deputy

By: s/Sean Connolly
SEAN F. CONNOLLY
Deputy City Attorney

Attorneys for Defendants CITY AND COUNTY OF
SAN FRANCISCO, et al.

Dated: December 15, 2009

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By: s/Joseph Brent
JOSEPH P. BRENT, ESQ.
DAVID LEE FIOL, ESQ.

Attorneys for plaintiffs JEFFREY BITTON,
MICHA BITTON & SANDRA BITTON

ORDER

Pursuant to stipulation, it is so Ordered that ENE Evaluator Patrick Robbins' jurisdiction to complete the early neutral evaluation be extended until January 29, 2010. ~~The Court also extends the deadline for fact discovery to and including March 26, 2010.~~

The Court makes no determination herein with respect to any request to extend the pretrial deadlines.

Date: December 17, 2009


The Honorable Maxine M. Chesney
Judge of the United States District Court